IN THE HIGH COURT OF JUDICATURE OF BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

NOTICE OF MOTION NO. 1228 OF 2003

IN

SUIT NO. 1899 OF 1989

Union Bank of India .. Plaintiff

versus

M/s.Balaji Luggage Industries & ors... Defendants

...

Mr.S. Joshi i/b M/s.Lokhandwala & Co. for the plaintiff.

Mr.A.T. Tamhane i/b Seema Sarnaik for the defendant nos.4 and 5.

CORAM : D.G. KARNIK,J.

DATED : 24th March 2005.

P.C.:

1. Heard the learned counsel for the plaintiff, defendant nos.4 and 5. None present for the defendant nos.1 to 3 when called. Learned counsel for the plaintiff undertakes to file affidavit of service on defendant nos.1 to 3 within a period of

two weeks. Undertaking is recorded and accepted.

2. This motion is taken out by the plaintiff for setting aside the order of dismissal of suit in default. The learned counsel for the defendant nos.4 and 5 has no objection for restoration of the suit. Hence, motion is made absolute in terms of prayer clause (a) subject to payment of costs of Rs.1,000/- payable to the defendant nos.4 and 5.

3. It is clarified that this order shall not take effect until the affidavit of proper service on defendant nos.1 to 3 is filed.

4. Costs to be paid within a period of two weeks.

D.G. KARNIK, J